IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTIETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 2018 of 1997

Between:

M.Vishwanatha Sharma, S/o M.Anjaiah,
R/o Kamakotinagar, Vidhyadara Puram, Vijayawada-12.

..... PETITIONER

AND

1 Managing Director, APSRTC, Musheerabad, Hyd.
2 The Depot Manager, APSRTC, Vijayawada-I Depot, Vijayawada.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ of mandamus declaring the action of the respondents 1) in retiring the petitioner prematurely on 30.9.96 taking into account as his date of birth as 22.9.38 as illegal and arbitrary and 2) consequently suspend order dt.27.9.96 in No.E2/693(03)/96-VZA-1 and retirement order No.E2/693(03)/96-VZA-1 dt.30.9.96 issued by the 2nd respondent 3) direct the respondent corporation to treat the petitioner as in service till 31.1.97 duly taking into account his date birth as 11.1.39 as per school records; 4) pay the salary and other allowance from 1.10.96 to 31.1.97 and

Counsel for the Petitioner:MR.G.VIDYASAGAR

Counsel for the Respondent Nos 1 and 2.: MR.VENKATESWARLU POSANI

The Court made the following :

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ORDER:

This writ petition is filed by the petitioner aggrieved by the action of the respondents in retiring the petitioner prematurely by 30.9.1996 though the petitioner is entitled to continue in service till 30th January, 1997.

According to the petitioner, he was appointed as Controller on 22.9.1961. At the time of appointment, he was sent for medical examination on 22.9.1961 and as per the medical report, petitioner's age was determined as 23 years as on 22.9.1961, determining his date of birth as 22-9.1938. Subsequently, when he came to know that his date of birth was wrongly determined basing on the medical examination, he produced his certificates showing that his date of birth is 11-1-1939 and according to the petitioner the date of birth was corrected as 11-1-1939 in the records of the Corporation. Therefore, according to the petitioner, as per his date of birth reflected in the educational certificates which was recorded by the respondent corporation, he is entitled to be in service till January, 1997, but, was forced to retire by 30.9.1996, thereby he was deprived of his service for a period of four months. Therefore, petitioner has filed the present writ petition in the month of February,1997, i.e. after four months of his retirement. It is also contended that the petitioner was given a notice of retirement a month before he was actually made to retire. Thereafter, though a representation was made, respondents did not consider it properly. Therefore, petitioner is entitled for the pay and allowances from 1.10.1996 to 31.1.1997 for a period of four months. Hence, the writ petition.

The writ petition was opposed by the respondents contending that at the time of retirement, petitioner was paid a sum of Rs. 1.77 lakhs towards gratuity, Rs.1.92 lakhs towards Provident fund and Rs. 13,000/- towards SBT fund. In all, about Rs.4.00 lakhs was paid at the time of his retirement. If the petitioner had continued upto January, 1997 these amounts would not have been paid. Apart from the above amounts, the petitioner was also paid pension which would come to nearly 50% of his salary. Further, even according to the petitioner, he has already received these amounts towards terminal benefits much before the actual date of retirement.

In view of the above monetary benefits received by the petitioner, this Court declines to go into the merits of the matter as the period in dispute is only four months.

Under the above circumstances, without going into the merits of the contentions that are raised by the petitioner, the writ petition is dismissed. No costs.

30th July, 2004

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To

1 Managing Director, APSRTC, Musheerabad, Hyd.
2 The Depot Manager, APSRTC, Vijayawada-I Depot, Vijayawada.

3. 2 CD copies.